

ENTERED

March 06, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION****In re:****GRIDDY ENERGY LLC,****Debtor.**§
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§**Case No. 21-30923****RUSSELL F. NELMS, in his capacity as
Plan Administrator of the estate of
GRIDDY ENERGY LLC,*****Plaintiff,*****v.****ELECTRIC RELIABILITY COUNCIL
OF TEXAS, INC.,*****Defendant.***§
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§**Adversary No. 22-03315****ORDER ON ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.'S MOTION TO
DISMISS AND FOR ABSTENTION [Doc. No. 11]**

Before the Court is Electric Reliability Council of Texas, Inc.'s ("ERCOT") *Motion to Dismiss and for Abstention*, [Doc. No. 11] ("Motion"). Having considered the Motion, the Court finds the Motion should be GRANTED IN PART. Accordingly, the Court ORDERS:

1. For the reasons stated on the record at the February 1, 2023 hearing, the Court will abstain under *Burford v. Sun Oil Co.* with respect to the question of whether ERCOT issued Debtor invoices in the correct amount and whether the Public Utility Commission of Texas ("PUCT") is a necessary party.

2. All proceedings in this Court, including the remaining grounds asserted in the


Motion, are ABATED. Grounds for dismissal presented in the Motion not decided by this Order are preserved.

3. Within sixty days of the date of this Order, Plaintiff must in good faith commence an action in a proper forum to determine and obtain entry of a final order or judgment as to the amounts that ERCOT should have charged the Debtor.

4. The Court retains jurisdiction over this adversary proceeding but abates it pending a final order or judgment from the proper forum.

5. If the proper forum where Plaintiff in good faith commenced its action will not provide a substantive ruling, this Court will entertain a motion to reconsider its decision to abstain.

Signed: March 06, 2023


Marvin Isgur
United States Bankruptcy Judge

Approved as to form:

/s/ Mazin A. Sbaiti
Mazin A. Sbaiti
Counsel for Plaintiff

/s/ Jamil N. Alibhai
Jamil N. Alibhai
Counsel for Defendant